

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

|                                  |                        |
|----------------------------------|------------------------|
| Russell W. Sample,               | :                      |
| Plaintiff,                       | :                      |
|                                  | :                      |
| v.                               | : File No. 2:04 CV 177 |
|                                  | :                      |
| Jo Anne B. Barnhart,             | :                      |
| Commissioner of Social Security, | :                      |
| Defendant.                       | :                      |

ORDER

The Report and Recommendation of the United States Magistrate Judge was filed March 17, 2005. Plaintiff's objection was filed March 28, 2005.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b) (1); *Perez-Rubio v. Wyckoff*, 718 F.Supp. 217, 227 (S.D.N.Y. 1989). The district judge may "accept, reject, or modify, in whole or in part, the magistrate's proposed findings and recommendations." *Id.*

After careful review of the file, the Magistrate Judge's Report and Recommendation and the objections, this Court ADOPTS the Magistrate Judge's recommendations in full.

The defendant's motion to dismiss (Paper 4) is **GRANTED** and this case is **DISMISSED**.

Dated at Burlington, in the District of Vermont, this  
22nd day of April, 2005.

/s/ William K. Sessions III  
William K. Sessions III  
Chief Judge  
U.S. District Court